

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty

This bill would require private company employees to distribute voter registration forms or face civil penalties. Because of personal belief, some individuals, may not want to be involved in voter registration activities.

B. EFFECT OF PROPOSED CHANGES:

HB 125 enhances the opportunities of Florida residents to register to vote and keep their registration current.

It is unclear how the definition of "third party voter registration organization" in s. 97.027(36), F.S., will be applied to FWCC subagents.

(36) "Third-party registration organization" means any person, entity, or organization soliciting or collecting voter registration applications. A third-party voter registration organization does not include:

- (a) A political party;*
- (b) A person who seeks only to register to vote or collect voter registration applications from that person's spouse, child, or parent; or*
- (c) A person engaged in registering to vote or collecting voter registration applications as an employee or agent of the division, supervisor of elections, Department of Highway Safety and Motor Vehicles, or a voter registration agency.*

If a subagent is considered a "third party voter registration organization," then it will be subject to the rules and penalties described in s. 97.0575, F.S., including:

- naming a registered agent to be filed with the Division of Elections;
- listing officers and people responsible for day to day operations;
- filing each quarter where they have conducted voter registration; and
- the imposition of fines on all officers of the company and persons collecting registrations ranging from \$500-\$5,000, plus applicable criminal penalties, if a registration is not delivered to the supervisor within ten days.

If FWCC subagents were added to the definition of a "voter registration agency" under s. 97.021(40)¹, F.S., the following would be required of them:

- acceptance of voter registrations from each license applicant (ss. 97.053, 97.058(1), F.S.);
- the date for a valid initial voter registration application is the date the application is received by the subagent (s. 97.053, F.S.);
- development of a form that each applicant will answer in regard to voter registration (s. 97.058(2) F.S.);

¹ Section 97.021(40), F.S., defines "voter registration agency" as "any office that provides public assistance, any office that serves persons with disabilities, any center for independent living, or any public library."

- forwarding completed registrations to the applicable supervisor within 5 days (s. 97.058(6), F.S.);
- retention of any declinations to register for 2 years (s. 97.058(8), F.S.);
- no showing of political preference when registering persons (s. 97.058(8), F.S.); and
- oversight by the FWCC of the conduct of subagents in regard to voter registration (s. 97.058(10), F.S.).

The Department of State (Department) raised the following concerns with HB 125:

- **Regulations/compliance:** The Department is concerned that FWCC subagents would not be bound by the regulations governing the Department of State, the supervisors of elections, voter registration agencies, or third-party voter registration organizations. They are especially concerned that the subagents would not be regulated in regards to promoting undue political influence and turning in voter registration timely.
- **Notice:** The bill contains no mechanism for supervisors of elections to receive an initial list or updates of subagents so that they can provide these subagents with voter registration applications.
- **Responsibilities:** FWCC subagents will be responsible for giving certain persons an “opportunity to register to update a voter registration record.” This would cause problems with persons not buying a license and receiving a voter registration, potentially making the subagent a “third-party voter registration organization.” The bill is unclear as to whether the subagent will simply hand out registration forms or also be required to receive completed forms and forward them to the supervisors. The subagents are not given a timeline for sending registrations to the supervisors of elections. No one is charged with the responsibility to train the subagents.

Duties of the supervisors of elections are unclear. The bill does not make clear the supervisors responsibility in regards to training the subagents or to the supplying and picking up of registrations. The bill does not cover how the supervisor is to know when registration forms are needed. .

- **Authority to Assess:** The bill does not address who would assess civil penalties. Under subsection (2) of section 372.574, F.S., which is unamended by the bill, the FWCC or any other law enforcement agency has the authority to enforce the statute.
- **Cost:** There is a cost associated to the supervisors with providing copies of voter registration applications to all the subagents.
- **Unintended Exposure to Criminal Penalties:** Under the bill, a supervisor of elections could potentially be subject to criminal sanctions. Under subsection (1)(d) of section 372.574, F.S., any person who violates any provision of section 372.574, F.S., is subject to 2nd degree misdemeanor charges. The bill does not amend this subsection to create an exception for the newly-created provision.
- **Legislative Intent:** The bill’s effect is somewhat contrary to the recent trends and legislative interest in monitoring the flow of voter registration applications and activities. This past year, the Legislature specifically enacted section 97.0575, F.S., to address wide-spread complaints during the 2004 general election year that third-party voter registration groups were diverting and culling information from completed registration applications before turning them in to the supervisors of elections’ offices, and that these organizations were either failing to submit them timely or not submitting them at all.

C. SECTION DIRECTORY:

Section 1 amends s. 375.574, F.S., to require subagents of the FWCC to conduct voter registration activity and provides penalties for non-compliance.

Section 2 provides the effective date as upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

There would be little if any, extra expense to the Department or supervisors, as they are currently responsible for reaching out to citizens in order to educate them on voting and elections, and to enhance voter registration opportunities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There will be some impact on the subagents that must provide the voter registration forms and for training on voter registration. Some commercial enterprises may feel that the civil penalties of up to \$5,000 imposed on third-party voter registration organizations do not warrant engaging in the sale of hunting and fishing licenses.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES